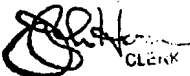


UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

FILED  
JUL 15 2010  
  
CLERK

\*\*\*\*\*

FRED CORNELL CONE,

Plaintiff,

-VS-

RAINBOW PLAY SYSTEMS, INC.,

Defendant.

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CIV 06-4128

ORDER

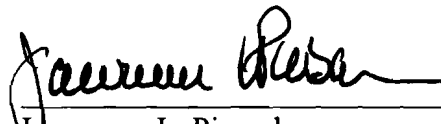
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On May 13, 2010, this Court issued a Memorandum Opinion and Order granting the motion for summary judgment filed by Defendant Rainbow Play Systems, Inc. ("Rainbow"). Judgment was entered in favor of Rainbow on that day. On May 24, 2010, Plaintiff Fred Cone filed a request to proceed with a claim of "Reckless Endangerment" against Rainbow. (Doc. 81.) Plaintiff claims that, in addition to the age discrimination claim alleged in his Complaint and addressed by the Court in the Memorandum Opinion, he also asserted a claim for reckless endangerment. There is no federal civil cause of action for reckless endangerment, and the Court is unaware of such a cause of action under South Dakota law. District courts may decline to exercise supplemental jurisdiction over state law claims under 28 U.S.C. § 1367(3) if the district court has dismissed all claims over which it has original jurisdiction. Issues such as judicial efficiency, convenience, and fairness to the parties are relevant to the exercise of a federal district court's discretion as to whether it will adjudicate state law claims when the federal claims have been dismissed. *United Mine Workers v. Gibbs*, 383 U.S. 715, 726 (1966); *Condor Corp. v. St. Paul*, 912 F.2d 215, 221 (8th Cir. 1990). This Court dismissed Plaintiffs' age discrimination claim over which it had original jurisdiction. It would be appropriate to leave to the state courts the determination whether a state law claim exists against the employer in this case. Accordingly,

IT IS ORDERED that Plaintiff's request to proceed with a reckless endangerment claim is denied. (Doc. 81.)

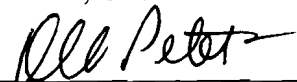
Dated this 15<sup>th</sup> day of July, 2010.

BY THE COURT:

  
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Lawrence L. Piersol  
United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY:   
\_\_\_\_\_  
(SEAL) DEPUTY